

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2377 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

P R BHATT

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 2377 of 1999
MR UTPAL M PANCHAL for Petitioner No. 1
MR MA BUKHARI A.G.P. for Respondent No. 1-2,4
RULE SERVED for Respondent No. 3

CORAM : MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 20/06/2002

ORAL JUDGEMENT

1. The petitioner has approached this Court under
Article 226 of the Constitution of India for appropriate
direction on the respondent to make payment of all

retiral benefits to him and he has further prayed for quashing and setting aside the show cause notice annexed to the petition at annexure-I.

2. According to the petitioner he was serving as a Medical Officer pursuant to his appointment dated 31st March, 1976 with new Civil Hospital at Surat. After rendering service of about 22 years the petitioner made an application dated 17th August, 1998 to the concerned authority to permit him to voluntarily retire with effect from 30th November, 1998. The petitioner has further averred that no response was received from the concerned authority on or before 30th November, 1998 and hence he submitted C.T.C. report and left the service of the said hospital. He has further averred that though he has retired from service, the respondents have not paid him the retiral benefits on the ground that disciplinary inquiry is pending against him in connection with late submission of postmortem report. He has further averred that as late as February, 2002 he has been served with chargesheet alleging that without obtaining permission of the appropriate authority he had left the service of the said hospital, though he was required to be retired in the year 2002 after reaching the age of superannuation.

3. Mr.U.M. Panchal, learned counsel for the petitioner has submitted that so far the first charge regarding late submission of postmortem report is concerned eight other Medical Officers were also served with the chargesheet containing the said allegation. Out of them an inquiry against Dr.R.P. Popat has already been dropped by the department on the ground that he has already retired from service and that no monetary loss has been caused to the hospital. Mr.Panchal has therefore submitted that the same analogy will apply in case of the petitioner also. Secondly, he has submitted that though according to him he has retired from service with effect from 30th November, 1998, the respondents have served the chargesheet alleging that it amounts to misconduct committed by the petitioner, in February, 2002. The same is, therefore, required to be quashed solely on account of delay and laches. Lastly, he has submitted that the petitioner is suffering from heart ailment and is required to be operated upon for bypass surgery. He is, therefore, in need of necessary funds to meet the expenses of the operation. As against that learned A.G.P. Mr.Bukhari appearing for the respondents has contended that the petitioner was informed sometime in the month of October, 1998 by Registered post A.D. that he should not, without obtaining permission of the concerned authority, treat himself to be voluntary

retired and if he did so action would be taken against him.

4. It appears from the record and submission made by the rival parties that on two grounds the inquiry is still pending before the Inquiry Officer. Looking to the dispute raised in this petition, it appears that the same can be decided only in light of the evidence that may be led by the parties at the inquiry proceedings. My jurisdiction under Article 226 of the Constitution of India being very limited it will not be possible to resolve the controversies involved in this petition which are based on pure questions of facts. Mr.Panchal, learned counsel for the petitioner after consulting his client makes a statement that he is prepared to face inquiry set up against him. He has further contended that looking to the ill health of the petitioner it is desirable that inquiry may be completed as early as possible. In light thereof, the respondents are directed to proceed with the inquiries and conclude the same as early as possible preferably before 31st August, 2002. It may also be clarified that disposal of this petition will not in any way come in the way of the petitioner and the Inquiry Officer is directed to decide the said controversies strictly in accordance with law and on the basis of the evidence that may be led before him. It is also hoped that the petitioner will fully cooperate with the proceedings in early disposal of the petition.

In view of the aforesaid observations this petition does not survive and it is hereby dismissed with no order as to costs. Rule is discharged. Direct service is permitted.

20.06.2002 [Akshay H. Mehta, J.]

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